

## TENTATIVE RULINGS for LAW and MOTION

### September 18, 2020

Pursuant to Yolo County Local Rules, the following tentative rulings will become the order of the court unless, by 4:00 p.m. on the court day before the hearing, a party requests a hearing and notifies other counsel of the hearing. To request a hearing, you must contact the clerk of the department where the hearing is to be held. Copies of the tentative rulings will be posted on Yolo Court's Website, at [www.yolo.courts.ca.gov](http://www.yolo.courts.ca.gov). If you are scheduled to appear and there is no tentative ruling in your case, you should appear as scheduled.

Telephone number for the clerk in Department Ten (530) 406-6816  
Telephone number for the clerk in Department Nine (530) 406-6819

**NOTICE:** Effective May 4, 2020, all court appearances are by Zoom or Conference call. Yolo Superior Court Virtual Courtroom and conference call information is posted on the Yolo Court's Website at [www.yolo.courts.ca.gov](http://www.yolo.courts.ca.gov).

#### TENTATIVE RULING

**Case:** California Tomato Growers Assoc. v. The Morning Star Packing Co.  
Case No. CV CV 19-411

**Hearing Date:** September 18, 2020 Department Nine 9:00 a.m.

The Court declines to rule on defendant The Morning Star Packing Company's objections to plaintiff's evidence submitted in opposition to motion for summary judgment, as the evidence objected to is not germane to the disposition of the instant motion. (Code Civ. Proc., § 437c, subd. (q).)

Defendant The Morning Star Packing Company's motion for summary judgment is **DENIED**. (Code Civ. Pro., § 437c, subd. (p)(2).) Defendant has failed to show that the pending dispute is "not one that is appropriate for declaratory relief." (*Gafcon, Inc. v. Ponsor & Associates* (2002) 98 Cal.App.4th 1388, 1402.) Specifically, the undisputed evidence shows "both continuing contractual relationships and future consequences for the conduct of the relationship that depended on the court's interpretation of the contracts at issue." (*Osseous Technologies of America, Inc. v. DiscoveryOrtho Partners LLC* (2010) 191 Cal.App.4th 357, 371; Plaintiff's UMF 20-22; Montna decl., ¶ 10.) Further, defendant fails to cite California legal authority that associational standing requires a showing of prospective relief, above the requirement of an actual controversy between parties. (See, e.g., *Monterey/Santa Cruz etc. Trades Council v. Cypress Marina Heights LP* (2011) 191 Cal.App.4th 1500, 1521–1522.)

Defendant's motion to bifurcate is **GRANTED IN PART**. (Code Civ. Proc., §§ 598, 1048.) Defendant has established that bifurcation of the trial would promote "the economy and efficiency of handling the litigation." (Code Civ. Proc., § 598.) While bifurcation would result in the duplication of witnesses, defendant has shown that bifurcation would result in overall greater judicial economy. (*Ibid.*) Given the Court's ruling on defendant's motion for summary judgment, the Court will separate the present matter into three trials: (1) whether plaintiff has

associational standing, (2) if necessary, whether open price contracts between plaintiff and defendant exist, and (3) if necessary, what a reasonable price for process tomatoes was in 2018.

Plaintiff's motion to seal documents attached as exhibit 2 to the declaration of Colin West is **DENIED**, without prejudice. (Cal. Rules of Court, rule 2.550.) Plaintiff has failed to provide "a memorandum and a declaration containing facts sufficient to justify the sealing." (Cal. Rules of Court, rule 2.551(b)(1); see also *Overstock.com, Inc. v. Goldman Sachs Group, Inc.* (2014) 231 Cal.App.4th 471, 484 [requiring a "good cause" showing "akin to that which supported issuance of the protective order"].) While defendant filed a supporting declaration in joinder, defendant has failed to address the factors in California Rule of Court, rule 2.550(d). Accordingly, the Court cannot make the express factual findings as required. (Cal. Rules of Court, rule 2.550(d).)

If no hearing is requested, this tentative ruling is effective immediately. No formal order pursuant to California Rule of Court 3.1312, or further notice is required.

#### **TENTATIVE RULING**

**Case:** **Din v. Sutter Valley Hospitals, et al.**

**Case No. CV CV 2020-720**

**Hearing Date:** **September 18, 2020** **Department Ten** **9:00 a.m.**

Defendant Sutter Valley Hospitals dba Sutter Davis Hospital's request for judicial notice is **GRANTED**. (Evid. Code, § 452, subd. (c).)

Defendant Sutter Valley Hospitals dba Sutter Davis Hospital's unopposed demurrer to the first and second causes of action in plaintiff Adnan Din, M.D., F.A.C.S.' first amended complaint is **SUSTAINED WITHOUT LEAVE TO AMEND**. (Code Civ. Proc., § 430.10, subd. (e).)

Defendant Sutter Valley Hospitals dba Sutter Davis Hospital's unopposed motion to seal exhibit A to its request for judicial notice is **GRANTED**. (Bus. & Prof. Code, §§ 800, subds. (a)(4), (c)(1), 803.1, subd. (b)(6), 805, subd. (g), 2027, subd. (b)(7); Evid. Code, § 1157, subd. (a); Cal. Rules of Court, rule. 2.550.) Defendant provides "a memorandum and a declaration containing facts sufficient to justify the sealing." (Cal. Rules of Court, rule 2.551(b)(1); see also *Overstock.com, Inc. v. Goldman Sachs Group, Inc.* (2014) 231 Cal.App.4th 471, 484 [requiring a "good cause" showing "akin to that which supported issuance of the protective order"].) Accordingly, the Court expressly finds facts establishing the required findings as stated in California Rule of Court, rule 2.550(d).

If no hearing is requested, and no party appears at the hearing, this tentative ruling is effective immediately. No formal order pursuant to California Rule of Court 3.1312 or further notice is required.

## TENTATIVE RULING

**Case:**                      **Nguyen v. Yolo County District Attorney Office**  
                                 **Case No. CV CV 20-985**

**Hearing Date:**        **September 18, 2020**                      **Department Nine**                      **9:00 a.m.**

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Defendant Yolo County District Attorney Office’s demurrer to plaintiffs’ complaint is **SUSTAINED WITHOUT LEAVE TO AMEND**. (Code Civ. Proc., § 430.10, subd. (e).) A claim must be presented to a public entity in actions seeking money or damages against the entity not later than six months after the accrual of the cause of action. (Gov. Code §§ 905, 911.2; *DiCampli-Mintz v. County of Santa Clara* (2012) 55 Cal.App.4<sup>th</sup> 983, 990-991.) Plaintiff fails to allege in his complaint that he timely presented a claim for money damages to the public entity. Plaintiff admits that he has not filed the claim and states that he does not need to file a claim prior to filing this lawsuit pursuant to Government Code sections 950 and 950.4. (Dec. of Konz, ¶ 2; opposition memorandum pp. 4:23-5:8, 8: 20-21.) The time to file the claim has passed. (Gov. Code, § 911.2; Complaint p.2:8-28.) Failure to timely present a claim for money or damages to a public entity bars a plaintiff from filing a lawsuit against that entity. (*State of California v. Superior Court* (2004) 32 Cal.4<sup>th</sup> 1234, 1245.)

Additionally, plaintiff’s only cause of action alleged against defendant is for malicious prosecution. “A public employee is not liable for injury caused by his instituting or prosecuting any judicial or administrative proceeding within the scope of his employment, even if he acts maliciously and without probable cause.” (Gov. Code, § 821.6.) “Except as otherwise provided by statute, a public entity is not liable for an injury resulting from an act or omission of an employee of the public entity where the employee is immune from liability.” (Gov. Code, § 815.2, subd. (b).)

If no hearing is requested, this tentative ruling is effective immediately. No formal order pursuant to California Rule of Court 3.1312, or further notice is required.